

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY J. MATHIAS,

Defendant.

NO. CR-11-24-JLQ

**ORDER DECLARING MISTRIAL
ON COUNT II**

On June 15, 2011, the jury returned its verdict of Guilty on Count I of the Superseding Indictment which charged the Defendant with committing the crime of residential burglary. The Verdict Form for Count I was signed and dated June 14, 2011, and the jury foreperson indicated that the verdict on Count I had been reached on June 14, 2011.

On the morning of June 15, 2011, the jury had submitted a written note stating “We are hung on a decision what are our options?” After consultation with counsel on the record, the court delivered a modified “Allen” instruction to the jury. Thereafter the jury submitted a written note stating in part: “We have come to an agreement about the first charge, and are unable to agree upon the second charge. We will not deliberate the second charge further.” The jury was then brought into court delivered its verdict on Count I and the jury was polled.

As the jury was unable to reach a verdict on Count II, the court declares a mistrial as to Count II of the Superseding Indictment. Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(e), if there is to be any retrial, such trial shall commence within seventy days of the action occasioning the retrial.

1 As directed by the court counsel shall confer as to disposition of this case and
2 counsel for the Government shall notify the court within ten days as to whether the
3 Government intends to ask the court to set a date for the retrial of Count II.

4 **IT IS SO ORDERED** the Clerk shall enter this Order and deliver copies to
5 counsel.

6 **DATED** this 15th day of June, 2011.

7 s/ Justin L. Quackenbush
8 JUSTIN L. QUACKENBUSH
9 SENIOR UNITED STATES DISTRICT JUDGE
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